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C O N F I D E N T I A L SECTION 01 OF 02 BANGKOK 003352

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TAGS: [PGOV](#) [KDEM](#) [PINR](#) [TH](#)

SUBJECT: AMENDING THAILAND'S CONSTITUTION: SOLUTION OR
PROVOCATION?

REF: A. BANGKOK 3191 (SOMCHAI AIMS FOR AMENDMENT)

[1](#)B. BANGKOK 3167 (THAKSIN CONVICTED)

[1](#)C. BANGKOK 3006 (CONTEMPLATING REFORM)

[1](#)D. BANGKOK 1619 (CONFLICT OVER AMENDMENT)

[1](#)E. BANGKOK 609 (CODEL PRICE MEETINGS)

[1](#)F. 07 BANGKOK 5225 (LUNCH WITH ABHISIT)

[1](#)G. 07 BANGKOK 4981 (MEETING WITH BANHARN)

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Classified By: Ambassador Eric G. John, reason: 1.4 (b and d).

SUMMARY AND COMMENT

[1](#)1. (C) The governing coalition is pursuing constitutional reform, although this prospect may again energize anti-government protests. The governing coalition's public statements on this topic have focused on procedural rather than substantive issues. We have heard that former Prime Minister Thaksin Shinawatra believes his allies can use the amendment process to provide him with a form of amnesty, enabling him to return to Thailand without facing imprisonment. Ongoing amendment efforts will likely take months and could easily be interrupted by political turmoil. If the parliament does ratify constitutional amendments, a new election would likely ensue, although elections could take place earlier, irrespective of the amendment process.

[1](#)2. (C) Comment: The anti-government People's Alliance for Democracy (PAD) came out in force in the spring when then-Prime Minister Samak Sundaravej suggested amending the constitution, but the PAD's long occupation of Government House may have eroded somewhat its ability to manipulate public sentiment. Many professional politicians have a stake in some sort of amendment; even the Democrat Party, which opposes the government's current effort, has previously said elements of the 2007 constitution should be revised. We do not doubt that Thaksin hopes that his surrogates will use constitutional reform to benefit him personally. His best chance of success may be to minimize public attention to this aspect until after the process has acquired momentum and legitimacy. End Summary and Comment.

BACKGROUND ON CONSTITUTIONAL AMENDMENT

13. (C) The People's Power Party (PPP) and its coalition allies have made clear their intention to amend the 2007 constitution, which was drafted by an assembly established by the leaders of the 2006 coup d'etat. Prime Minister Somchai Wongsawat recently told the Ambassador that he aimed to move Thailand toward "genuine democracy" through an amendment process (ref A). Even prior to the December 2007 election, Democrat Party Leader Abhisit Vejjajiva and Chart Thai Party Leader Banharn Silapa-Archa -- who at the time was not aligned with PPP -- had told the then-Ambassador that they believed some type of constitutional reform would be necessary (ref F and G).

14. (C) In both pre-election (ref F) and post-election (ref E) remarks, Abhisit focused on revising the unusual hybrid nature of the Senate. Other political party leaders have been more concerned with the destabilizing Article 237, which requires the dissolution of a political party and the five-year disenfranchisement of its entire executive board in the event that a member of that board violates election laws. Ongoing cases that threaten to dissolve PPP, Chart Thai, and the Matchima Thippathai are proceeding in accordance with Article 237.

15. (C) Earlier this year, PPP also made clear its intention to reconsider article 309, which deemed constitutional any acts that were taken in accordance with the 2006 interim constitution, which was put forth by the coup leaders within two weeks of the coup. Article 309 has been widely interpreted as providing both amnesty for the 2006 coup leaders and legal cover for the Asset Examination Committee (AEC), the anti-corruption body that the military established

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to build indictments against former Prime Minister Thaksin Shinawatra.

16. (C) When, in the spring, then-Prime Minister Samak Sundaravej appeared intent on pushing for constitutional amendment (ref D), the People's Alliance for Democracy (PAD) began energetic street protests against this plan. While PAD has put forward its own concept of "new politics" for revising Thailand's system of governance (ref C), PAD leaders have repeatedly made it clear that they staunchly oppose any constitutional amendment process led by the PPP. The Democrat Party also currently opposes a PPP-led amendment process, with some of its officials expressing public concern that PPP's efforts would be self-serving and engender instability.

NOW CONSIDERING MODALITIES

17. (C) PPP and its coalition partners are currently focusing on the procedural way forward. They have proposed amending only article 291, which specifies the modalities for amendment. This single revision would pave the way for creation of a new constitutional drafting assembly that would then propose more comprehensive substantive revisions. The composition and mandate of the drafting assembly remain uncertain, but it appears likely that, as PM Somchai indicated to the Ambassador (ref A), the assembly would include many figures elected for this purpose and resemble the body that drafted the 1997 constitution. Somchai also said he envisioned a new legislative election following amendment, although he is not precluded from dissolving the parliament and holding a new election under the current constitution, irrespective of amendment processes.

18. (C) We expect the legislature to consider a motion on the amendment of article 291 in the coming weeks, but not before the November 16 conclusion of funeral rites for King Bhumibol's elder sister, who died in January. Public speculation has indicated that the work of the drafting

assembly would take many months, as was the case in both 2007 and 1997. Both the near-term amendment of article 291 and the longer-term work of the (still notional) drafting assembly appear vulnerable to disruption by PAD-led protests.

OPENING THE DOOR TO THAKSIN'S RETURN

19. (C) A member of Thaksin's legal team, Manida "Micky" Zimmerman (strictly protect), told us on October 31 that Thaksin believed that a constitutional amendment process would enable him to return to Thailand without having to face imprisonment for his recent conviction (ref B). She envisioned that the amendment process would nullify all court cases prepared by the Asset Examination Committee, whether pending or completed. When asked why this provision would not simply lead to the same sort of vehement demonstrations that the PAD had conducted against constitutional amendment in the spring, Micky said the PAD could also receive a benefit, in the form of amnesty for its (still ongoing) illegal occupation of the Government House compound. She added that the pro-Thaksin side was now determined to force the amendment process forward, even if the PAD were to object. Micky said that Thaksin hoped to return to Thailand in 2009, although she believed a two-year timeframe was more likely.

JOHN